IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

MFA.No. 630 of 1997()

OPMV.1688/1991 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR
.....

APPELLANT - PETITIONER:

V.K. KURIAKOSE, S/O. KURIAKOSE,
VAIDIANPARAMBIL HOUSE, KADOOPADAM
U.C. COLLEGE POST, ALUVA TALUK

BY ADV. SRI.BABU KARUKAPADATH

RESPONDENTS - RESPONDENTS:
----

1. **N.K. GOPALAKRISHNAN, S/O. KESAVAN,**
   PULICKAL HOUSE, THAIKKATTUKARA, ALUVA.

2. **M.C. VARGHESE ALIAS BABY, S/O.CHACKO,**
   MANJOORAN HOUSE, ERUMATHALA P.O.,
   CHUNANGAMVELI.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 03/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

==========

M.F.A. NO. 630 OF 1997

==========

Dated this the 3rd day of October, 2007

J U D G M E N T

Petitioner in O.P(MV) No.1688 of 1991 on the file of the Motor Accidents Claims Tribunal, Perumbavoor, is the appellant. Appeal is filed against the award passed by the Tribunal dismissing petitioner's claim for compensation against the second respondent and also challenging the quantum of compensation. Appellant filed the petition claiming compensation impleading the first respondent and one James Paily. It was alleged that the petitioner was riding a motor cycle bearing Reg. No.KL-7/B-2889 and when the motor cycle reached the place of incident, a Tempo Van bearing Reg. No.KRH-4478 driven by the first respondent and owned by the second respondent came in a rash or negligent manner and hit against the motor cycle. The petitioner sustained injuries. He filed the petition claiming a compensation of Rs.1,00,000/-. It was averred that initially in the petition it was stated that the first respondent was the

registered owner and second respondent was the driver. But the person impleaded as the registered owner of the vehicle was deleted and the second respondent was re-numbered as first respondent. Driver did not file any written statement. Second respondent alone contested the matter. It was contended that he was not the owner of the vehicle and he was an unnecessary party to the proceedings. The Tribunal, after trial found that the driver was negligent and the petitioner is entitled to get a compensation of Rs.26,000/-. Tribunal exonerated the second respondent and made the first respondent alone liable for the compensation awarded. Challenging the inadequacy of the quantum of compensation awarded and also the finding that the appellant is not entitled to get any compensation from the second respondent, this appeal is filed.

2. Learned counsel appearing for the appellant submitted that in spite of registered notice issued by the counsel, appellant did not turn up. It is argued that the quantum of compensation awarded is too low. It is further argued that the finding of the Tribunal that the second

respondent is not liable ignoring Exhibit A12 is unsustainable. As I have already stated in the O.P. initially it was stated that the first respondent was the registered owner of the vehicle. But, subsequently, he was removed from the party array and the present second respondent was impleaded. The only document relied on is Exhibit A12, a Kaichit (bond). That Kaichit only shows that one Varghese @ Baby took the vehicle on interim custody from the Police Station and the vehicle was taken into custody from his possession. There was no admission made by the second respondent that he was the registered owner or owner of the vehicle. So there is no material on record to hold that the second respondent was the registered owner of the offending vehicle. The finding of the Tribunal that he is not liable for the compensation awarded is correct and does not call for any interference.

3. Tribunal had awarded Rs.5,000/- for pain and suffering, Rs.3,000/- for medical expenses and Rs.2,000/- for loss of earning. Considering all aspects of the matter, I am of the considered opinion that the compensation awarded by the Tribunal is reasonable and no interference is called for against

the same. The appeal is without any merit and the same is only to be dismissed.

In the result, appeal is dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

==========

M.F.A. NO. 630 OF 1997

==========

J U D G M E N T

3RD OCTOBER, 2007